

## ARTICLE 12:79

### ***SOUTH DAKOTA CERTIFIED™ BEEF PROGRAM***

#### Chapter

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#### **CHAPTER 12:79:01**

#### **DEFINITIONS**

#### Section

12:79:01:01	Definitions.
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**12:79:01:01. Definitions.** Terms defined in SDCL titles 38, 39, and 40 have the same meaning when used in this article. Other terms used in this article mean:

- (1) "Animal Industry Board," the Animal Industry Board continued by SDCL 40-3-1;
- (2) "Antibiotic drug," any compound or family of compounds, either naturally or artificially produced, that are administered at subtherapeutic or therapeutic levels, which kill or inhibit the growth of bacteria within the body, including penicillins, cephalosporins, aminoglycosides, sulfonamides, fluoroquinolones, florfinicol, macrolides, tetracyclines, and ionophores;
- (3) "Backfat," backfat on a carcass that is evaluated in terms of the thickness of this fat over the ribeye muscle exposed between the twelfth and thirteenth ribs, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This

measurement may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass;

(4) "Beef product," edible muscle tissue produced from the harvesting and processing of certified finished cattle or certified natural finished cattle;

(5) "Beef program," the *SOUTH DAKOTA CERTIFIED*<sup>TM</sup> beef program created by SDCL chapter 39-24 and this article;

(6) "Blood splashed," meat showing evidence of rupture of capillaries in fat and muscle due to short-term violent excitement;

(7) "BQA/CMP manual," the Beef Quality Assurance/Critical Management Plan program manual produced by the South Dakota ~~Animal Industry Board~~ Beef Industry Council, PO Box 7051, Pierre, SD;

(8) "BQA/CMP certificate," the Beef Quality Assurance/Critical Management Plan Certificate issued by the South Dakota ~~Cattlemen's Association~~ Beef Industry Council, PO Box 7051, Pierre, SD;

(9) "Carcass defects," traits that decrease the value of a beef carcass by decreasing the palatability, or decreasing consumer acceptance of appearance;

(10) "Certification mark," the certification mark as depicted in U.S. Trademark Serial Number 78/526958, alone or in conjunction with a tradename as provided in § 12:79:04:01;

(11) "Certified enrolled cattle," certified feeder cattle, certified finished cattle, certified natural feeder cattle, and certified natural finished cattle as defined in this section;

(12) "Certified feeder cattle," live cattle that are born and raised within the State of South Dakota in conformity with the requirements of the enrolled cattle program and the license agreement;

(13) "Certified finished cattle," certified feeder cattle that are fed within the State of South Dakota in conformity with the requirements of § 12:79:03:08 and the license agreement;

(14) "Certified natural feeder cattle," live cattle that are born and raised in conformity with §§ 12:79:03:01 to 12:79:03:06, inclusive, and are also raised in conformity with the requirements of the natural program in § 12:79:10:01 and the license agreement;

(15) "Certified natural finished cattle," certified natural feeder cattle that are produced in conformity with the natural program in § 12:79:10:02 and the license agreement;

(16) "Corrective action," the action required of a licensee by the secretary to come into compliance with the requirements of any program and the license agreement;

(17) "Dark cutters," carcasses or parts of carcasses showing evidence of dark red to dark brown tissue coloring resulting from long-term or intermediate-term glycogen depletion caused by stress to the living animal;

(18) "Data management system," the electronic internet-based system designated by the secretary for use in submitting reports required by this article and the license agreement;

(19) "Department," the Department of Agriculture;

(20) "Distiller's grain," the corn byproduct from corn-to-ethanol production;

(21) "Electronic ear tag," a radio frequency identification ear tag that contains a fifteen digit unique identification number for each animal and which is used by producers to identify certified enrolled cattle;

(22) "Enrolled cattle program," the *SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup> program created by this article;

(23) "Fund," the South Dakota Certified Beef Fund created by SDCL 39-24-10;

(24) "HACCP," the Hazard Analysis and Critical Control Point plan developed by processors pursuant to 9 C.F.R. Ch. III (January 1, 2005) or as required by the meat inspection program;

(25) "Heifer," female bovine that has not produced offspring;

(26) "Hormone," all exogenous estrogenic and androgenic growth promoting hormones including the active ingredients of zeranol, estradiol, progesterone, testosterone, trenbolone acetate, and melengestrol acetate and all exogenous reproductive hormones including progesterone, prostaglandin (PGF<sub>2A</sub>), gonadotropin releasing hormone (GnRH), follicle stimulating hormone (FSH), and luteinizing hormone (LH);

(27) "Hot carcass weight," the weight of a carcass measured before the carcass is chilled. Carcass is defined as the beef animal following slaughter with the hide, head, feet, tail, and internal organs, except the kidneys, removed;

(28) "License," a marketer license, producer license, or a processor license;

(29) "Licensee," a marketer, producer, or processor who has met all requirements for participation in any program and has entered into a valid license agreement signed by the secretary;

(30) "License agreement," a written agreement between the department and a participant in any program that sets forth the terms and conditions under which the applicant is granted permission to use the proprietary rights as specified in the agreement;

(31) "Licensed marketer," a marketer who meets the requirements of § 12:79:03:10 and has entered into a valid license agreement signed by the secretary;

(32) "Licensed processor," a processor who meets the requirements of § 12:79:03:09 and has a current and valid license agreement signed by the secretary;

(33) "Licensed producer," a producer who has a ~~premises identification number~~, verifiable address, that meets the requirements of § 12:79:03:05, and has a current and valid license agreement signed by the secretary;

(34) "Marbling score," a description of the amount, distribution, and texture of intramuscular fat found in the longissimus muscle that was exposed between the twelfth and thirteenth rib of a beef carcass. The degrees of marbling referenced in the specifications, in order

of descending quantity are: slightly abundant, moderate, modest, small, slight, traces, and practically devoid;

(35) "Marketer," a person who raises certified enrolled cattle or purchases certified enrolled finished cattle before harvest, contracts to have them processed by a licensed processor and then markets the resulting beef product to wholesalers, retailers, or the public; or a person who purchases beef product processed by a licensed processor and markets the beef product to wholesalers, retailers, or the public; or a person who purchases certified enrolled finished cattle before harvest and then sells those cattle to a licensed processor or another licensed marketer;

(36) "Meat inspection program," the meat inspection program administered by the Animal Industry Board pursuant to SDCL chapter 39-5;

(37) "Minimally processed," beef that has been subject only to minimal processing, including those traditional processes used to make food edible, or to preserve it or make it safe for human consumption, e.g., smoking, roasting, freezing, drying, and fermenting; or those physical processes that do not fundamentally alter the raw product or that only separate a whole, intact food into component parts, as defined in "Food Standards and Labeling Policy Book";

(38) "Natural beef program," the *SOUTH DAKOTA CERTIFIED*<sup>TM</sup> natural designation as described by this article;

(39) "Natural enrolled cattle program," the *SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup> natural designation as described by this article;

(40) "Person," a natural person, or an association, partnership, cooperative corporation, limited liability partnership, limited liability company, or corporation registered with the Secretary of State to do business in the State of South Dakota;

~~(41) "Premises," an identifiable physical location that in the judgment of the state veterinarian, represents a unique and describable geographic entity where activity affecting the health or the traceability of livestock may occur;~~

~~(42) "Premises identification number," a computer generated random seven digit number assigned by the state veterinarian pursuant to SDCL chapter 40-3;~~

~~(43)~~ (41) "Processing procedures manual," the document written by the processor and approved by the secretary that describes the policies, procedures, and processes used for harvesting, processing, segregating, and tracking beef product meeting beef program or natural beef program requirements;

~~(44)~~ (42) "Processor," a meat processing establishment regularly engaged in the harvesting of live cattle or preparation or processing of beef product and that is either licensed by the meat inspection program or undergoes inspections conducted by the USDA Food Safety Inspection Service, as described in 9 C.F.R. Ch. III (January 1, 2005);

~~(45)~~ (43) "Processor license," the nonexclusive, nontransferable permission granted to a processor via a license agreement authorizing the use of the certification mark;

~~(46)~~ (44) "Producer," a person who raises, owns, feeds, or finishes cattle;

~~(47)~~ (45) "Producer license," the nonexclusive, nontransferable permission granted to a producer via a license agreement to use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*"<sup>TM</sup> trademark;

~~(48)~~ (46) "Product sample," a sample of beef product collected and submitted for testing pursuant to this article and a license agreement;

~~(49)~~ (47) "Program," any of the programs specified in subdivision (49) of this section;

~~(50)~~ (48) "Programs," the beef program, enrolled cattle program, natural beef program, and natural enrolled cattle programs, collectively;

~~(51)~~ (49) "Proprietary right," the certification mark and any other service mark, trademark, certification mark, copyrights, know-how, trade secrets, or other intellectual property rights owned by the State of South Dakota and authorized for use in conjunction with any program;

~~(52)~~ (50) "Ribeye area," the area of longissimus muscle only between the twelfth and thirteenth rib of a beef carcass;

~~(53)~~ (51) "Secretary," the secretary of the Department of Agriculture or the secretary's designee;

~~(54)~~ (52) "*SOUTH DAKOTA CERTIFIED*"<sup>TM</sup> beef," tier one or tier two packaged beef products from certified finished cattle processed within the State of South Dakota in conformity with the requirements of the beef program and the license agreement;

~~(55)~~ (53) "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*"<sup>TM</sup> natural program," the requirements governing the production and management of certified natural feeder cattle and certified natural finished cattle as specified in this article;

~~(56)~~ ~~(54)~~ "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*"<sup>TM</sup> program," the requirements governing the production and management of certified feeder cattle and certified finished cattle as specified in this article;

~~(57)~~ (55) "*SOUTH DAKOTA CERTIFIED*"<sup>TM</sup> natural beef," tier one or tier two packaged beef products from certified natural finished cattle processed within the State of South Dakota in conformity with the requirements of § 12:79:10:03 and the license agreement;

~~(58)~~ (56) "Steer," male bovine that has been neutered before reaching eight months of age;

~~(59)~~ (57) "Trained producer," a producer who is in the process of becoming a licensed producer and has attended a BQA/CMP certificate session conducted by a SDSU livestock educator where producers learn proper BQA cattle handling practices and receive a CMP form upon completion of the training;

~~(60)~~ (58) "USDA," the United States Department of Agriculture; and

(59) "Verifiable address," an identifiable physical location in South Dakota that represents a unique and describable geographic location where activity affecting the health or the traceability of livestock may occur;

~~(61)~~ (60) "Yield grade," the indicated yield of closely trimmed (½ inch fat or less), boneless retail cuts expected to be derived from the major wholesale cuts (round, sirloin, short loin, rib, and square-cut chuck) of a carcass.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

**General Authority:** SDCL 39-24-6(1) to (5), inclusive.

**Law Implemented:** SDCL 39-24-1 to 39-24-10, inclusive.

**Note:** "Meat processing establishment" is defined in SDCL 39-5-6(17).

**References:** "South Dakota Beef Quality Assurance/Critical Management Plan Program," South Dakota Animal Industry Board, revised through ~~February 2006~~ ~~April 1, 2005~~, distributed by the South Dakota Beef Industry Council. ~~Cattlemen's Association, 435 Chapelle Street, Pierre, SD.~~  
~~The cost of this publication is \$25.~~

"Food Standards and Labeling Policy Book," revised for web publication August, 2005, published by the USDA Food Safety Inspection Service. Copies may be obtained by internet from [http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling\\_Policy\\_Book\\_082005.pdf](http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf). There is no charge for the publication.

**12:79:02:02. Form of license agreement.** If an application for participation in any program is approved, the secretary shall issue a nonexclusive, nontransferable license to use the applicable proprietary rights. The secretary shall establish the terms and conditions included in the license agreement consistent with SDCL 39-24 and this article. A license agreement shall include, but is not limited to, the following requirements:

(1) The licensee shall agree not to use any proprietary rights of any program except as allowed by law or pursuant to the terms of the license agreement and this article;

(2) The licensee shall agree to follow all applicable program procedures and shall agree to keep detailed records showing full compliance with requirements of any program as applicable;



(3) The licensee shall agree to pay all fees and costs;

(4) The licensee shall agree to submit to all inspections and audits, and to allow or provide for access by the secretary to the licensee's facility, certified enrolled cattle, beef product, and records during regular business hours for such purposes;

(5) If a processor, the licensee shall agree to comply with any applicable meat inspection laws, regulations, and policies;

(6) The licensee shall represent that the applicable requirements set forth in this article for the animal or beef product at each applicable stage of production or processing will be met for the animal or beef product within the licensee's physical possession;

(7) The licensee shall agree to comply with all applicable state, federal, and local laws, rules, and ordinances;

(8) The licensee shall agree that the licensed rights may be suspended or terminated by the secretary as provided in this article or in the license agreement; and

(9) If a producer, the licensee shall have a current and valid Beef Quality Assurance/Critical Management Plan certification card issued by the South Dakota Cattlemen's Association.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

**General Authority:** SDCL 39-24-6(1),(3).

**Law Implemented:** SDCL 39-24-3.

**Reference:** "South Dakota Beef Quality Assurance/Critical Management Plan Program," South Dakota ~~Animal Industry Board~~ Beef Industry Board, revised through ~~April 1, 2005~~ November 9, 2011, published by the South Dakota ~~Animal Industry Board~~ Beef Industry Board, ~~411 S. Fort Street~~ PO Box 57051, Pierre, SD. ~~The cost of this publication is \$25.~~

**12:79:02:03. Denial of application.** The secretary may deny an application if the secretary determines that issuing the license will put the integrity of any program at risk. In determining

whether granting an application may put the integrity of any program at risk, the secretary may consider the following:

(1) Whether the applicant has the ability to comply with the applicable program requirements;

(2) Whether the applicant is willing to comply with the applicable program requirements;

(3) Whether the applicant has a criminal history;

(4) Whether the applicant is subject to the jurisdiction of any program;

(5) Whether the livestock to be enrolled will be subject to the jurisdiction of any program;

(6) Whether the licensed ~~premises~~ verifiable address ~~are~~ is subject to the jurisdiction of any program;

(7) Whether the applicant has in the past failed to meet any requirements of any program;  
and

(8) Whether the applicant has done anything to jeopardize the integrity of any program.

**Source:** 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3).

**Law Implemented:** SDCL 39-24-3.

**12:79:03:01. Enrollment.** To enroll an animal in the enrolled cattle program or natural enrolled cattle program, a licensed producer shall submit the required data to the data management system. The data shall be in an electronic form or in other forms as ~~required~~ allowed by the secretary. Licensed producers shall:

(1) Confirm that the animal to be enrolled was born within the State of South Dakota in the physical possession of a licensed or trained producer, that the animal has continuously since birth been in South Dakota in the physical possession of the original licensed or trained producer, and that the animal has remained in South Dakota in the physical possession of the original licensed or trained producer seeking enrollment of the animal.

(2) Have a ~~valid premises identification number~~ verifiable address;

(3) Except when an animal is temporarily located at a veterinary facility or at a licensed livestock sales facility licensed by the Animal Industry Board for the purpose of sale, confirm that the animal will be in the physical possession of a licensed producer who meets the requirements of § 12:79:03:05, and that the licensed producer will raise the animal in accordance with the requirements of that section;

(4) Confirm that the licensed producer seeking enrollment of the animal is the first person in physical possession of the animal for which enrollment is sought;

(5) Agree that removing the animal from the State of South Dakota automatically terminates the animal's enrollment and participation in the enrolled cattle program and the natural enrolled cattle program and that the licensee will not use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup>" trademark in reference to any animal that has at any time before or after enrollment been removed from the State of South Dakota;

(6) Confirm that the animal conforms to the sex, breed, and age requirements of § 12:79:03:04 at the time of enrollment;

(7) Confirm that the animal was enrolled in the enrolled cattle program or the natural enrolled cattle program before the earlier of removal of the animal from the ~~premises~~ verifiable address of its birth or before commingling steers and heifers that are eligible for enrollment with steers and heifers that originate off premise;

(8) If the licensed producer is not a natural person, provide the signature of each natural person owning a ten percent or greater interest in the licensee; ~~and~~

(9) Enroll eligible cattle no less than seven days before any transfer from the original ~~premises~~ verifiable address of birth; ~~and~~

(10) Upon completion of enrollment the producer will receive from the department the Transfer Warranty Certificate for that enrolment that will be used by producer at the time of physical transfer of possession of the enrolled cattle.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007; 35 SDR 187, effective February 10, 2009.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-3.

**12:79:03:03. Transfer procedure.** To retain eligibility in the enrolled cattle program or the natural program, the transfer of certified enrolled cattle shall be made as follows:

(1) Every licensee who transfers physical possession of certified enrolled cattle to another licensee shall warrant that the certified enrolled cattle are on the date of the transfer in full compliance with all requirements of the applicable program. The warranty shall be in writing on a form required by the secretary, and shall be provided to the transferee before or at the time of transfer;

(2) Any transfer of physical possession of certified enrolled cattle from a licensed producer shall be only to another licensed producer or a licensed processor. This requirement does not apply if certified enrolled cattle are temporarily transferred to a veterinary facility or to a livestock auction market licensed by the Animal Industry Board for the purpose of sale;

(3) The transfer of certified enrolled cattle from one ~~premises~~ licensed producer to another shall be reported to the ~~secretary~~ Department of Agriculture ~~using the data management system as follows:~~ on the transfer warranty certificate, the certificate shall be on a form required by the secretary and must be kept as a record to document the receiving, shipping, and disposition of enrolled cattle within seven calendar days after the transfer;

~~(a) If certified enrolled cattle are transferred from a licensed producer to another licensee, the transferor shall electronically report the transfer to the data management system before or at the time of the transfer;~~

~~———— (b) A licensee who physically receives certified enrolled cattle must also report the transfer and shall file a copy of the warranty required under § 12:79:03:03(1) with the department within seven calendar days after the transfer;~~

(4) The ~~transfer~~ treatment or disqualification and subsequent removal of cattle from the natural enrolled cattle program to the enrolled cattle program must be ~~reported to the secretary using the data management system~~ recorded in the producer's treatment records and on the transfer warranty certificate with the department within seven calendar days of the change;

(5) Any transfer other than as expressly provided for in these rules automatically terminates the enrollment of the animal in the enrolled cattle program and natural program unless specifically exempted by the secretary.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-3.

**12:79:03:04. Sex, breed, and age requirements.** No animal may be enrolled in the enrolled cattle program or natural enrolled cattle program unless it is:

(1) A heifer or steer. ~~A bull calf may be enrolled before or upon weaning, but not after it reaches the age of eight months. Enrollment for a bull calf expires after it reaches the age of eight months unless the bull calf is neutered and the licensed producer in physical possession of the animal reports the neutering to the data management system on or before the date the bull calf reaches the age of eight months;~~ except that bull calves must be neutered before eight months of age to remain eligible to be enrolled as a steer;

(2) A breed other than *Bos indicus* breeds or other breeds with Brahman influence; and

(3) Not more than twenty-four months of age. When certified enrolled cattle reach twenty-four months of age, their enrollment authority expires and certification is no longer effective for that animal.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-2, 39-24-3.

**12:79:03:07. Certified Feeder Cattle.** A licensed producer who enrolls cattle and raises them in compliance with the requirements of §§ 12:79:03:01 to 12:79:03:06, inclusive, may by contract be granted permission to use the mark "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup>" in connection with qualifying enrolled cattle, if the licensed producer complies with SDCL chapter 38-24, this article, and the producer license. The licensed producer shall keep detailed electronic or written records of:

(1) ~~The birth date and premises of birth~~ The transfer warranty certificate which must include ~~for~~ each enrolled animal;

(2) Transfers of physical possession of certified enrolled cattle, including a record of the date ~~and the person who reported the transfers to the data management system~~ of receiving the enrolled cattle, pen or pasture location, alternate forms of identification used on cattle, disposal of animals while in possession, shipment dates, and numbers shipped;

~~(3) Transfers of cattle to the enrolled cattle program from the natural enrolled cattle program, including a record of the date and the person who reported the transfers to the data management system;~~

~~(4)~~ (3) Compliance with the BQA/CMP certificate requirement for the certified enrolled cattle fed under the licensee's physical possession;

~~(5)~~ (4) Temporary transfers as referenced in § 12:79:03:03; and

~~(6)~~ (5) Lost or destroyed electronic ear tags as referenced in § 12:79:03:02.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-2, 39-24-3.

**12:79:03:09. Licensed processor requirements.** Each licensed processor shall meet the following requirements:

(1) A licensed processor shall be located in, and all processing of the beef products shall be done within the borders of, the State of South Dakota;

(2) All packaged beef products leaving the licensed processor's facility bearing the certification mark shall be traceable from the package back to the ~~premises~~ verifiable address or animal of origin;

(3) Beef products bearing the certification mark may only be derived from certified finished cattle or certified natural finished cattle;

(4) A licensed processor shall have a valid license from the meat inspection program or shall be subject to inspection authorized or conducted by the USDA Food Safety Inspection Service, 9 C.F.R. Ch. III (January 1, 2005);

(5) The beef product shall originate from live animals handled and harvested in conformity with the requirements of the meat inspection program as authorized under 9 C.F.R. 321.1 (January 1, 2005), or with the USDA Food Safety Inspection Service requirements as listed in 9 C.F.R. Ch. III (January 1, 2005);

(6) Beef product processed from dark cutters, borderline dark cutters, and carcasses with excessive blood splashes are ineligible to carry the certification mark;

(7) Beef products processed under the beef program or the natural beef program shall be segregated from other beef products during harvesting and processing in order to carry the

certification mark. Harvested tissue shall be traceable to the live animal of origin throughout harvesting and processing;

(8) Ground, comminuted, or marinated products shall be traceable to a "lot" or "batch" of beef product under the traceability program described in the processor procedures manual. All packaged beef product leaving the licensed processor's facility bearing the certification mark, including commingled or value-added beef product, must be made exclusively of beef product eligible to carry the certification mark and traceable back to the animal of origin;

(9) The licensed processor shall develop, implement, and maintain a processing procedures manual to comply with beef program or natural beef program requirements and submit it to the secretary for approval. The processing procedures manual must include a traceability program. The approval does not change or abrogate any meat processing standards for HACCP plans required by the Food Safety Inspection Service or the meat inspection program; and

(10) The licensed processor shall record, at a minimum, the following carcass data into the State's data management system for individual animals:

- (a) Hot carcass weight;
- (b) Ribeye area;
- (c) Backfat thickness;
- (d) Yield grade;
- (e) Carcass defects;
- (f) Marbling score;
- (g) Harvest date;
- (h) Processor identification; and
- (i) Electronic identification number.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).



**Law Implemented:** SDCL 39-24-2, 39-24-3.

**12:79:06:01. Inspections and audits.** The licensee shall submit to ~~premises~~ verifiable address and records inspections and audits to insure compliance with applicable program requirements, including any random, follow-up, unannounced or other inspection or audit, as required by the secretary. The secretary shall approve an audit plan of licensees for each state fiscal year. At least ten percent of all licensed producers shall be randomly audited each state fiscal year. All licensed marketers and licensed processors shall be audited at least once each state fiscal year. Results of all inspections and audits shall be reported to the secretary. The secretary may release the number of inspections and audits conducted, the type and number of violations, and the type and number of remedial actions required in each county. All other data and information received and made during inspections and audits constitutes business information and shall remain confidential. Inspection and audit results shall be preserved by the department for a period of five years.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(3),(4),(5).

**Law Implemented:** SDCL 39-24-3, 39-24-5.

**12:79:07:08. Harvest fee.** Each licensed processor shall remit monthly ~~at least semiannually~~ a harvest fee of one dollar per processed carcass if the carcass or any processed products of the carcass will be marketed or sold as *SOUTH DAKOTA CERTIFIED*<sup>TM</sup> beef or *SOUTH DAKOTA CERTIFIED*<sup>TM</sup> natural beef products.

**Source:** 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(2),(4).

**Law Implemented:** SDCL 39-24-3, 39-24-6(2),(4).

**12:79:08:04. Grounds for suspension of license.** The secretary may suspend a license for cause, including:

- (1) Failure to maintain records as required by this article;
- (2) Failure to allow or provide for access for the secretary to the licensee's ~~premises~~ verifiable address or records that does not rise to the level of refusal;
- (3) Implementation of material or repeated changes to the processor procedures manual without prior written approval from the secretary;
- (4) Failure to comply with applicable federal, state, or local law;
- (5) Failure of more than one tenderness or marbling test during a twelve month period, for which correction actions have not been implemented to the reasonable satisfaction of the secretary;
- (6) Failure to pay fees or correction action costs when due;
- (7) Any other violations of SDCL chapter 39-24, this article, or the license agreement; or
- (8) The Secretary is presented with credible evidence that the licensee did not meet the eligibility requirements set forth in this chapter at the time the license was issued.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-3, 39-24-6(4), 39-24-8.

**12:79:08:05. Grounds for termination of license.** The secretary may terminate a license for cause, including:

- (1) Failure to complete a corrective action within the time specified in writing by the secretary;
- (2) Failure to comply with any lawful directive of the secretary;
- (3) Refusal to allow or provide for access for the secretary to the licensee's ~~premises~~ verifiable address or records;
- (4) The deliberate, reckless, or repeated misrepresentation of an animal as being eligible for enrollment;

(5) The deliberate, reckless, or repeated misrepresentation of beef product as meeting the requirements to carry the certification mark or to be labeled as tier one or tier two;

(6) Failure to pay fees when due and after any grace period established by the secretary;

(7) Failure to pay corrective action costs when due and after any grace period established by the secretary. Nothing in this section establishes any obligation on the part of the secretary to collect corrective action costs owed to third parties;

(8) Failure to correct a cause for suspension within the time specified in writing by the secretary, whether the license is suspended or not;

(9) Misapplication, misuse, or dilution of the proprietary rights;

(10) Any violation of SDCL chapter 39-24, this article, or the license agreement that puts the integrity of any program or the public health, safety, or welfare at material risk of imminent harm; or

(11) The secretary is presented with credible evidence that the licensee did not meet the eligibility requirements set forth in this article at the time the license was issued.

**Source:** 32 SDR 31, effective August 29, 2005; 33 SDR 10, effective August 3, 2006; 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-3, 39-24-6(4), 39-24-8.

**12:79:10:01. Certified natural feeder cattle.** A licensed producer who enrolls cattle and raises them in compliance with the requirements of §§ 12:79:03:01 to 12:79:03:06, inclusive, may by contract be granted permission to use the mark "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup>" in connection with qualifying enrolled cattle, if the licensed producer complies with SDCL chapter 39-24, this article and the license agreement. The term "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup> NATURAL" may also be used in connection with the

qualifying enrolled cattle if, in addition to meeting the standards for the enrolled cattle program, the following criteria are met:

(1) The producer confirms that, with the exception of milk and milk products, the enrolled cattle will not be fed any feed ingredients that contain animal products, animal fats, or marine products as defined on pages 257-263 and 285 and 294-296 of the 2007 Official Publication of Association of Animal Feed Control Officials Incorporated;

(2) The producer confirms that the cattle enrolled in the natural enrolled cattle program will not be administered with any hormones during their lifetime;

(3) The producer confirms that the cattle enrolled in the natural enrolled cattle program will not be treated with antibiotic drugs of any kind during their lifetime;

(4) The producer agrees to follow the transfer procedure in § 12:79:03:03 for any enrolled cattle that become disqualified from the natural enrolled cattle program;

(5) The producer understands that failure to meet the natural enrolled cattle program requirements automatically terminates the animal's enrollment and participation in the natural enrolled cattle program and that the licensee may not use the "*SOUTH DAKOTA CERTIFIED ENROLLED CATTLE*<sup>TM</sup>" trademark in conjunction with the term "natural" or "natural program" in reference to any animal not produced in conformity with the natural program rules.

**Source:** 33 SDR 188, effective May 10, 2007.

**General Authority:** SDCL 39-24-6(1),(3),(4).

**Law Implemented:** SDCL 39-24-2, 39-24-3.

**Reference:** "~~2007~~ Official Publication Association of American Feed Control Officials Incorporated," ~~2007~~, published by the Association of American Feed Control Officials Incorporated. Copies may be obtained from the Association of American Feed Control Officials, P.O. Box 478, Oxford, IN 47971. The cost for this publication is \$50.